

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ROGER BRIAN HESS, JOY
ELAINE HESS, and JEREMY HAROLD
CLAYTON HESS, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

DENISE R. HESS-PLONT,

Respondent-Appellant.

UNPUBLISHED
December 28, 2004

No. 254707
Oakland Circuit Court
Family Division
LC No. 00-642338-NA

Before: Murphy, P.J., and White and Kelly, JJ.

MEMORANDUM.

Respondent appeals as of right from the trial court order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(b)(ii), (c)(i), (g), (j), and (l). We affirm.

The trial court did not clearly err in determining that the statutory grounds for termination were established by clear and convincing evidence. MCR 3.977(J); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000); *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1993).

Respondent had moved to Tennessee for a three-year period, leaving the minor children with her husband, the children's father. Respondent claimed that she did not see the minor children when she lived in Tennessee because the children's father told her that her parental rights had been terminated. After the minor children were taken into temporary custody because their father could no longer take care of them, respondent returned to Michigan and regained custody of two of the children. However, she again put them at risk of harm in the hands of her new husband, who physically abused both children. Although respondent reported the physical abuse to the police, she later sided with her husband and continued to expose the children to potential abuse. In addition, five different relatives had sexually abused one of the minor children. Respondent was aware of this and put the child at further risk of sexual abuse by allowing her to sleep in the home of a sexual perpetrator on a couch unprotected. Even when the child told her of the abuse, respondent did not protect her. Finally, respondent acknowledged that her parental rights to three other children had previously been terminated.

The court also did not clearly err in determining that termination of respondent's parental rights was not against the best interests of the minor children. *Trejo, supra* at 353, 356-357. While the minor children all wanted to maintain contact with respondent, the evidence was overwhelming that respondent was unable to keep the minor children safe and continually placed her own needs and financial interests above their safety.

Affirmed.

/s/ William B. Murphy

/s/ Helene N. White

/s/ Kirsten Frank Kelly